

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
BRIAN S. COHEN, :

Plaintiff, : ORDER

-v.- :

15 Civ. 6881(RJS) (GWG)

THEODORE F. SCHROEDER, :

Defendant. :

-----X

**GABRIEL W. GORENSTEIN, UNITED STATES MAGISTRATE JUDGE**

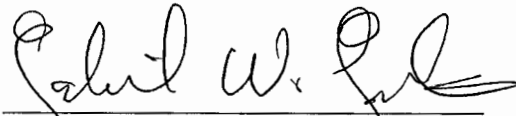
The Court has reviewed the letter from plaintiff dated May 18, 2016 (Docket # 70) and a faxed letter from defendant in response. The Court will not docket the faxed letter as it contains references to the material that plaintiff seeks to strike.

Plaintiff makes two requests. As to the first request, the Court declines to rule on the request to strike deposition testimony because this application is not within the Order of Reference (Docket # 23)

As to the request to direct the defendant to comply with paragraph 1 of the Court's "Standing Order Applicable to Settlement Conferences Before Judge Gorenstein" (contained in Docket # 56), the Court recognizes some ambiguity in paragraph 1 to the extent a party seeks to apply it to settlement discussions that take place pursuant to the Court's directive to make a settlement demand and response. It is not clear that such pre-conference discussions — as opposed to the letters to the Court and the conversations that take place during the settlement conference itself — are part of the "[settlement] conference process" within the meaning of the Standing Order. In light of this ambiguity, the Court will not impose a special restriction on pre-conference settlement discussions. Rather, the Court will rely on Rule 408 of the Federal Rules of Evidence to strike the appropriate balance as to the use of such discussions for evidentiary purposes.

SO ORDERED.

Dated: May 19, 2016  
New York, New York

  
GABRIEL W. GORENSTEIN  
United States Magistrate Judge